

FINDING OF EMERGENCY

The Secretary of the Department of Food and Agriculture finds that an emergency exists, and that the foregoing amendment to the regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1 and Public Resources Code Section 21080.

Description of Specific Facts Which Constitute the Emergency:

Hydrilla, *Hydrilla verticillata*, is an aquatic plant that has been a serious pest in the United States. Following its introduction into Florida in the early 1960's, hydrilla has spread north from Florida to Washington D.C. and west to Texas, Arizona, and California. Total expenditures by various public and private agencies in Florida for the control of hydrilla are estimated to be approximately \$20 million per year. A small infestation of hydrilla was discovered in the Potomac River in 1983. Approximately 6,000 acres of river are now heavily infested.

The Legislature has specifically declared that the further introduction and spread of hydrilla would be detrimental to the state, causing irreparable injury to the agricultural industry and recreational use of streams, lakes, and waterways; and that eradication of hydrilla is essential to the preservation of the environment. (FAC Section 6048(a)). Commensurate with those declarations, the Legislature mandated the Department of Food and Agriculture to take immediate action to ascertain the feasibility of eradication and to eradicate if feasible. (FAC Section 6048(c)).

Through both natural and artificial forces, hydrilla can spread rapidly. Moreover, hydrilla has multiple means of reproducing; if the plant is broken, fragments having as few as two whorls of leaves, which can be as small as an inch, can root and form new plants. Once hydrilla becomes

established in an aquatic site, it rapidly spreads and out-competes native aquatic vegetation. During the warm summer months, hydrilla can grow several inches a day. During early spring and from late summer through the fall, hydrilla produces vegetative propagules called tubers and turions. These structures, once formed, can remain dormant for many years before they germinate and produce new plants. Once hydrilla becomes established in a static or flowing water system, the use of that system for recreational, domestic, industrial, or agricultural purposes becomes severely limited or, in many cases, almost impossible. Additionally, accidental drowning and flooding are other tragic possible effects of this crippling aquatic weed.

A suspect hydrilla sample was detected infesting a pond in the Grass Valley area of Nevada County on July 21, 2004 and subsequently confirmed as hydrilla on July 29, 2004. This discovery was sudden and unexpected, as hydrilla was not previously known to exist in the county. Unless eradication activities are immediately conducted, hydrilla may spread from its present location to other bodies of water in the area.

The proposed amendment of Section 3962(a) would add Nevada County to the eradication area for hydrilla. The entire county is being proposed as an eradication area since detection surveys may result in finds of additional small hydrilla infestations outside the current known area. To enable rapid treatment of newly discovered small infestations without frequent amendment of the regulation, the entire county should be established as an eradication area.

The effect of this amendment will be to implement the State's authority to perform control and eradication activities against hydrilla in Nevada County. Eradication actions undertaken by the Department will be in cooperation and coordination with federal, city, county, and other state

agencies as deemed necessary by the Department to ensure no long-term significant environmental impacts. To prevent spread of the weed to non-infested areas to protect California's agricultural industry and environment, it is necessary to immediately begin treatment activities against the weed. Therefore, it is necessary to amend this regulation as an emergency action.

Authority and Reference Citations

Authority: Sections 407 and 5322, Food and Agricultural Code.

Reference: Sections 5322, 5761 and 6048, Food and Agricultural Code.

Informative Digest

Possession, propagation, production, harvest, or distribution of hydrilla is unlawful in this state.

Existing law provides that hydrilla is a noxious weed and that the further introduction and spread of this serious aquatic weed pest would be detrimental to the State, causing irreparable damage to the agricultural industry and recreational use of streams, lakes, and waterways and further that the eradication of this aquatic weed pest is essential to the preservation of the environment (Food and Agricultural Code Section 6048).

Existing law mandates the Department to take immediate action to address any discovery of hydrilla in the state. (FAC Section 6048(c). Existing law also specifically authorizes the Department to adopt quarantine or other regulations prohibiting the importation of hydrilla. (FAC Section 6048(b)).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as he deems necessary to protect the agricultural industry

from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3962. Hydrilla Eradication Area.

Existing Section 3962(a) provides that the entire counties of Calaveras, Imperial, Lake, Madera, Mariposa, Shasta, Tulare and Yuba are eradication areas with respect to *Hydrilla verticillata*. The proposed change in the regulations will add Nevada County to the list of eradication areas. The effect of the change is to provide authority for the State to perform eradication activities against hydrilla in Nevada County.

Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that the proposed amendment of Section 3962 does not impose a mandate on local agencies or school districts.

Cost Estimate

The Department has also determined that the regulation will involve no additional costs or savings to any state agency because funds for state costs are already appropriated, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable savings to local agencies or costs or savings to school districts under Section 17561 of the Government Code, funds for reimbursement for costs to local agencies have already been appropriated, and no costs or savings in federal funding to the State.